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SUBJECT: NDRC RESPONDS TO U.S. CONCERNS ON POSTAL LAW

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REF: (A) BEIJING 4293; (B) BEIJING 3509

1. (SBU) SUMMARY: The Embassy received on December 22 from the National Reform and Development Commission (NDRC) a faxed statement, dated December 18, responding to U.S. Government and private sector comments on the Revised Draft of the Postal Law. NDRC's statement avers that the exclusion of foreign firms from domestic express delivery services is consistent with China's commitments to the World Trade Organization (WTO). It also states that the draft law excludes all express delivery companies (both domestic and foreign) from those mail delivery business exclusively operated by postal enterprises. As the National People's Congress' (NPC) second and possibly third reading of the Postal Law, originally anticipated for the NPC Standing Committee December 22-29 session, has been postponed, Mission China will continue, in consult with industry, to convey to policy makers at the national and regional level U.S. concerns with the draft law and urge its revision. END SUMMARY.

2. (SBU) The attached text is an Embassy corrected version of NDRC's courtesy translation, which more accurately reflects the original Chinese text.

BEGINNING OF TEXT

The National Development and Reform Commission of the People's
Republic of China

Dec. 18, 2008

Written Statement on the Postal Law (Revised Draft) of the People's
Republic of China

The Postal Law (Revised Draft) of the People's Republic of China was submitted to the Standing Committee of the National People's Congress for review on Oct. 23, 2008, and then the Sub-Committee on Legislative Affairs of the Standing Committee of the National People's Congress invited comments on the Revised Draft from the general public from Oct. 30 to Nov. 30, 2008. Relevant departments of the federal government of the United States of America, the U.S.-China Business Council and some American companies have paid close attention to the Revised Draft of the Postal Law, and provided comments on certain contents of the Revised Draft through the Fifth U.S.-China Strategic Economic Dialogue (SED) and other channels, particularly on Article 50 of the Revised Draft, which states "Foreign companies are restricted from investing or operating in the domestic mail (see definition below) express delivery service." The National Development and Reform Commission of the People's Republic of China, according to its knowledge, would like to provide

information as follows:

The Revised Draft of the Postal Law was drafted in line with the Reform Plan on the Postal System, by widely soliciting opinions from domestic government agencies, enterprises, experts and customers, and borrowing ideas from useful experiences and practices of other countries. The Revised Draft imposes no discrimination on foreign companies, and will not affect the existing international delivery business of foreign companies operating in China for reasons as follows:

I. Article 50 of the Revised Draft states "Foreign companies are restricted from investing or operating in the domestic mail express delivery business. The domestic express delivery business herein refers to a business in which the entire delivering process from the acceptance of the mail piece to the delivery to the recipient occurs within the borders of China."

This article does not violate China's commitment to the WTO, neither will it affect activities such as acceptance, posting, transport, delivery and etc., carried out by foreign express delivery companies in China when they operate international mail express delivery business (except for private mail).

II. Article 54 of the Revised Draft states "Express delivery companies are excluded from those mail delivery businesses exclusively operated by postal enterprises, and express delivery companies are also restricted from posting and delivering official documents of government agencies."

According to this article, the mail posting and delivery business is the exclusive business of postal enterprises, and express delivery

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companies are restricted from delivering official documents of government agencies. This is applicable to both domestic and foreign express delivery companies. In this regard, the Revised Draft treats domestic and foreign express delivery companies equally, and imposes no discrimination against foreign enterprises.

The Chinese government holds an open and welcoming attitude towards foreign companies carrying out express delivery business in China, and has provided foreign companies with equal and fair treatment in line with China's commitment to the WTO and relevant laws and regulations. The Chinese government also has provided foreign express delivery companies with maximum policy support. Under such policy environment, foreign express delivery companies have seen fast expansion in the Chinese market in recent years along with China's steady and fast economic growth, and have dominated over 80 percent of the market share of China's international express delivery business. One outstanding example showing China's support to foreign express delivery companies is the recently built transportation hub at the Guangzhou Baiyun International Airport, which is the largest of its kind in the Asia-Pacific region, with total investment of 2 billion RMB by the Chinese side, and will be rented to Fedex Corp. to start operation shortly.

mail: refers to letters and postcards

END OF TEXT

13. (SBU) Copies of the original NDRC statement in Chinese and English are available via fax or as a scanned document from Daniel Kachur (kachurd@state.gov) of the Embassy's Economic Section. The statement was apparently simultaneously transmitted to industry via the U.S.-China Business Council. Local United Parcel Service (UPS) contacts do not view the NDRC letter as adding anything constructive to the dialogue underway. The contents of NDRC's statement are essentially the same as NDRC Vice Chairman Zhang Xiaoqiang's delivered remarks at the U.S.-China Strategic Economic Dialogue (SED) meeting in Beijing on December 4-5.

14. (SBU) The National People's Congress' (NPC) second and possibly third and final reading of the Postal Law, originally anticipated

for the NPC Standing Committee December 22-29 session, has been postponed. The reason for the delay was not made public, but NPC Economic Committee members told Economic Minister Counselor Robert Luke that they were aware of strenuous objections by U.S. and European industry representatives, and they hoped this delay would give time to address some of those concerns. Embassy Economic Section, Foreign Commercial Service (FCS), and USTR offices will continue to work closely with affected U.S. companies in China to engage and educate local and central government officials of U.S. concerns with the draft law and urge revision of the draft law prior to passage.

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